



TESTIMONY BEFORE THE GENERAL LAW COMMITTEE
REGARDING S.B. 911,
AN ACT CONCERNING HOMEMAKER SERVICES AND
HOMEMAKER-COMPANION AGENCIES

February 24, 2011

Senator Doyle, Senator Taborsak and members of the General Law Committee, my name is Tracy Wodatch and I am the Vice President of Clinical and Regulatory Services at the Connecticut Association for Home Care & Hospice (CAHCH), whose member agencies serve over 100,000 elderly, disabled and terminally ill Connecticut citizens. I am also a Registered Nurse with over 10 years of home care experience.

CAHCH **supports** S.B. 911, a bill that extends protections to clients serviced in their homes through registries. Currently, registries that provide homemaker services and homemaker-companion services are not regulated, yet they are caring for some of our most vulnerable citizens in the private home setting. Since these protections are already in place for our licensed home health agencies, we view this bill positively in “closing the gap” to ensure that all types of agencies will provide safe, quality home care for our Connecticut citizens.

In accordance with the State of Connecticut’s goal of rebalancing long term care delivery by expanding opportunities for individuals to receive care in their homes, this bill will also ensure consumer protection and provide important consumer education. Consumers will be responsible for day-to-day supervision and oversight of these workers, for managing their daily duties and for ensuring proper credentialing. Too often, consumers do not understand the differences between home care provider agencies and may not fully comprehend their own responsibilities. This bill and the requirement for delineation of the consumer responsibilities will help clarify consumer misunderstanding and expectations.

Additionally, CAHCH's Home Health Legislative Work Group, supported by Representative Betsy Ritter, has developed valuable consumer education materials which are attached to this testimony. Our Association and individual home care provider members would be pleased to work with the legislature and the Department of Consumer Protection to further develop the documents required in this legislation.

Thank you for consideration of our testimony. I will be pleased to answer any questions you may have. Please contact me at Wodatch@cahch.org or 203-294-7348.

**CAHCH's Legislative Breakfast is on Tuesday, March 1st
from 8:00 to 9:30 a.m. in the Executive Dining Room of the LOB.**



Caring for Yourself or A Loved One: What Consumers Should Know Before Hiring A Non-Licensed Personal Caregiver

The Connecticut Association for Home & Hospice Care (CAHCH) has developed guidelines for hiring personal caregivers to help ensure that its member agencies adhere to certain standards and take reasonable and prudent steps to hire the highest quality workforce to provide care for patients. These best practices provide guidance and protection to give patients and their families a way to evaluate qualifications and credentials. They are intended for all individuals who need personal care. As the need for home care services increases, we must ensure that the caregivers who are hired to care for our loved ones are qualified and competent.

When people are looking for non-licensed caregivers, the process can be very confusing. Whether you choose to use a licensed home health agency, non-licensed agency, or private hire, you should consider the following:

- ❑ **Contract/Written Agreement:** Be sure to have a contract or written agreement with the private care worker that specifics the anticipated schedule, planned duties, and payment arrangement.
- ❑ **Taxes/Workers Compensation:** Be sure to determine if you are responsible for paying taxes. If you hire someone directly, then you are the employer and you as an individual or your family are required to pay unemployment, social security and payroll taxes (and possibly worker's compensation). If you are using an agency, do not assume that all agencies pay employee related taxes. Be sure to inquire as to whether the agency that you are working with is paying the taxes.
- ❑ **Comprehensive Background Checks:** Be sure that the agency conducts comprehensive background checks, which at a minimum should include a criminal background check. Be sure to determine if the scope of the criminal background check is national or just statewide. Also, find out how far back the check goes and if it includes physical and drug screening, a personal and professional reference check, verification of appropriate education or training (if applicable), driving records (if applicable) and a review of appropriate registries (such as the sex offender registry or Certified Nursing Assistant (CNA) registry). Clients or family members can contact either the Department of Public Health or the Department of Consumer Protection to determine if an agency has had any complaints filed against them. Please note that the CNA registry only lists those CNAs licensed in CT who have worked for Skilled Nursing Facilities. Complaints from home health or other settings are not logged there.
- ❑ **Credentials:** Be sure to inquire if the agency is licensed or registered. If a home health agency is licensed they must be licensed through the state's Department of Public Health. If a homemaker/companion agency is registered they must be registered through the state's Department of Consumer Protection.

- ❑ **Education:** Be sure that agency staff is properly trained. Appropriate education and training is currently required for Certified Nurse Aides and Home Health Aides. Also inquire if non-licensed personal care providers (i.e. PCAs), receive agency orientation and ongoing in-service education to ensure clinical competence and compliance with agency policy.
- ❑ **Back Up/On Call Services:** Be sure that there is a back-up plan in place for the provision of care if the personal care worker is unavailable. If you are using an agency, the plan should be provided through the agency. If you are working with a private hire then be sure to have pre-established arrangements if the regular caregiver is unavailable.
- ❑ **Oversight:** Be sure that there is appropriate and frequent supervision of personal care workers and that there is a plan for follow-up in place if there is a problem with the contracted caregiver. Also, determine if there is a formal complaint process in place either through the agency or by contacting the appropriate officials.

Please contact CAHCH at 203-265-9931 or email info@cahch.org for further information.

Types of Agencies that Provide Non-Licensed Personal Caregivers:

Licensed Home Health Agency: This agency is a full service agency that provides skilled services (nursing, rehabilitation services and social work) as well as home health aide services. These agencies may also provide specialty services such as hospice, behavioral health, and telemonitoring. These agencies may choose to provide homemakers and other non-licensed services. Services may be paid for by Medicare, Medicaid, Private Insurance or private pay. This agency holds a license with the State of Connecticut and is surveyed by the Department of Public Health.

Licensed Homemaker/Home Health Aide Agency- This agency can provide services to the private pay or Medicaid population. This agency holds a license with the State of Connecticut and is surveyed by the Department of Public Health. They can provide companion, homemaker, home health aides and live in caregivers.

Registered Companion Homemaker Agency- This agency is a registered business with the Department of Consumer Protection. Effective October 1, 2006 an agency that provides these services must be registered as an employer. This agency can provide personal care attendants, companions, homemakers, and live in caregivers to chronic and stable private pay clients.

Private Duty Registries: These are providers who act as referral sources or “matchmaking services” for private pay personal care. Services that may be provided are nursing, personal care attendants, companions and homemakers. The client may or may not be responsible for taxes and liability insurance, unemployment, social security and workers compensation.

Privately Hired Caregivers- The client is the employer for these individuals. The client is responsible to pay unemployment, social security, workers compensation, taxes and liability insurance.

Current Home Care Services 2011

Category	I	II	III	IV	V
	Private Hire or Self Pay PCA	Homemaker/ Companion (CGS 20-670 through 20-680)	Personal Care Attendant (PCA) State Funded/Medicaid Waiver (Regulations of CT State Agencies Sec. 17b-262-588)	Personal Support (DDS)	Home Health Aide (HHA) (Regulations of CT State Agencies Sec 19-13-D69)
Duties	Any duties necessary to promote independent living	Homemaking, shopping, laundry, meal preparation	Physical assistance to enable the consumer to carry out ADL/IADLs (CGS sec 17b-262-588)	Assistance necessary to meet the individual's day to day activity and daily living needs and to reasonably assure adequate support at home and in the community to carry out personal outcomes.	Personal Care: ADLs/IADLs, exercises, assist with medication self administration; any other task the RN chooses to have the aide perform (not defined but limited by Nurse Practice Act and Declaratory Ruling) (State of CT Public Health Code sec. 19-13-D9 (a)(3)(G))
Background Checks	Not required	Comprehensive background check- legislation pending to define	Criminal Background Check 7 years-state and federal-Client can sign a release of liability, but DSS may refuse payment based on certain findings	State of CT Criminal Background Check and DDS Registry Check	Not required but most agencies do; Medicare hospice requires 3 yrs
Contractual/Care Plan Requirements	Not required	Required between client and HM Companion agency	Required for CHCPE/State Funded clients-updated annually between DSS and the case management agency (Level of Care Plans and Cost of Care analysis)	Developed by DDS Case Manager and the individual's Support Team.	Developed by licensed agency with patient input and agreement. MD orders for care.

Current Home Care Services 2011

Orientation	Client orients	Client orients	Fiscal Intermediary orientation/Client orients care	Individual or family orients	75 Hours; Trained by qualified nurse.
Inservice Training/Competency	Client trains as needed	Client trains as needed	Client trains PCA; Must demonstrate competency in effective employer/employee relationships, disability awareness, use of equipment, and activities of daily living	Prior to being alone with the Individual: -demonstrate competence in knowledge of DDS policies and procedures: abuse/neglect; incident reporting; client rights and confidentiality; handling fire and other emergencies, prevention of sexual abuse, knowledge of approved and prohibited physical management techniques -demonstrate competence/knowledge in topics required to safely support the individual as described in the Individual Plan -Medication Administration*	10 hours orientation 12 hours per year Ongoing can be trained by licensed agency staff.
Supervision Level	Supervised by Client	Supervised by Client	Case Manager -RN or Social Worker does onsite level of care review (RN Every 6 months for CHCPE). Supervision of daily tasks by Client	* if required by the individual supported Direct Hires--Supervised by the individual or the employer of record. Agency—Supervised by agency administrative staff	RN

Current Home Care Services 2011

Supervision Frequency	N/A	N/A	N/A	N/A	Every 14 days; Every 60 Days for nonskilled care plans only
Complaint Process	PSE, DDS	Through HM/Comp agency and DCP, DDS	Through access agency, PSE, or DSS case manager; Through FI for fraud complaints, DDS	Through case manager, Resource Administration, FI, or Ombudsperson	Through DPH, PSE, DDS
Potential Risks/Identified Gaps *Consider broadening scope of HHA duties for specific tasks *Define coordination of care *Consider agency training assistance *Further define complaint process	*Background checks *Need for specific skills training if client is unable to train *Coordination of care between licensed agency and private hire if applicable. *Fraud /Abuse Complaint process * Consumer awareness	*Caring for clients who are not "chronic & stable" without skilled services involvement *Providing PCA/personal "hands on" care without appropriate training/oversight *Clarify Supervision/Training/ Background Check Requirements *Fraud and Abuse Complaint process?	*Training needs for skills above competency (i.e. catheter care, suctioning, wound care) *Caring for clients who are not "chronic &stable" without skilled services involvement *No protective services for clients between age 18-59.		*Limited scope of services for HHAs vs PCAs *Complaint process- through DPH but no registry for HHA fraud/abuse complaints

Current Home Care Services 2011

Regulatory Framework for Home Care Patients Receiving Non-Skilled Services-2011

Hierarchy of Patients Needing Non-Skilled Services	Category of Personnel Recommended	Potential Payors	Key Patient Characteristics	Regulatory Environment	Staffing Models
Medicare/ Medicaid coverable-meets medical necessity and homebound criteria	Home Health Aide (HHA)	Medicare Medicaid	Likelihood of condition change during post-acute recovery and/or complex interactive unskilled needs	CoPs- OASIS, MD oversight on plan of care, biweekly nurse supervision of aides State Licensure	*Licensed Home Health Agency (Staff employed by agency)
Medicare qualifying skilled need present, but patient is not homebound	Home Health Aide (HHA)	Medicaid CHCPE Private Pay	Likelihood of condition change and/or complex interactive unskilled needs	CoPs- OASIS, MD oversight on plan of care, biweekly nurse supervision of aides State Licensure	*Licensed Home Health Agency
Stable with no reasonable potential for change	Personal Care Assistant (PCA)	CHCPE Private Pay	Stable with no reasonable potential for change	CoPs- applicable to unskilled patients State Licensure	*Licensed Homemaker/Home Health Aide Agency * Private Duty/Vendor Agency (Staff employed by agency) *Agency with Choice: Agency contracts to assist pt in managing PCA hired by pt. *Self Directed/Private Hire
Stable with no reasonable potential for change, self directing	Personal Care Assistant (PCA)	CHCPE-self directing option or PCA pilot Private pay		Unlicensed	*Licensed Homemaker/Home Health Aide Agency *Private Duty/Vendor agency *Agency with Choice *Self Directed/Private Hire
Stable with no reasonable potential for change, no personal care needs	Homemaker/ Companion	AAA's/ CCCI CHCPE Private Pay		Unlicensed	*Licensed Homemaker/Home Homemaker/Companion Agency *Private Duty/Vendor agency *Agency with Choice *Self Directed/Private Hire

Types of Agencies that Provide Non-Licensed Personal Caregivers:

Current Home Care Services 2011

Licensed Home Health Care Agency-CGS 19a-490(d): This agency is a full service agency that provides skilled services (nursing, rehabilitation services and social work) as well as home health aide services. These agencies may also provide specialty services such as hospice, behavioral health, and telemonitoring. These agencies may choose to provide homemakers and other non-licensed services. Services may be paid for by Medicare, Medicaid, Private Insurance, or private pay. This agency holds a license with the State of Connecticut and is surveyed by the Department of Public Health.

Licensed Homemaker/Home Health Aide Agency-CGS 19a490 (e): This agency can provide services to the private pay population. This agency holds a license with the State of Connecticut and is surveyed by the Department of Public Health. They can provide companions, homemakers, home health aides and live in caregivers.

Registered Companion Homemaker Agency-CGS 20-670: This agency is a registered business with the Department of Consumer Protection. Effective October 1, 2006 an agency that provides these services must be registered as an employer. This agency can provide personal care attendants, companions, homemakers, and live in caregivers to chronic and stable private pay or Medicaid waiver clients.

Private Duty Registries: These are providers who act as referral sources or "matchmaking services" for private pay personal care. Services that may be provided are nursing, personal care attendants, companions and homemakers. The client may or may not be responsible for taxes and liability insurance, unemployment, social security, and workers compensation.

Privately Hired Caregivers- The client is the employer for these individuals who provide private pay personal care. The client is responsible to pay unemployment, social security, workers compensation, taxes and liability insurance.

Self-Directed Care: The client is the employer for these individuals, but utilizes a fiscal intermediary for payroll and all applicable taxes/insurances. The client may also choose to use an agency for case management services. These clients are serviced under Medicaid or Medicaid Waiver programs.

